

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 3:05-cr-046-F
	)	(WO)
JERRY SCOTT MINOR	)	

**ORDER**

On November 2, 2005, the defendant filed a Motion to Continue (Doc. #47). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). See *United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that counsel for the defendant will begin employment with the Federal Defender Program on November 15, 2005, and the Federal Defender Program is precluded from representing the defendant because of a conflict of interest. Counsel for the government does not object to a continuance of the November 7 trial date. Based upon the

volume of cases on the November 7, 2005 criminal trial term and the special circumstances which have arisen in this case involving counsel, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. See United States v. Davenport, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motion filed on November 2, 2005 is GRANTED;
2. That the trial of this defendant is continued from the November 7, 2005 trial term to the February 13, 2006 trial term.
3. That the Magistrate Judge conduct a pretrial conference prior to the February 13, 2006 trial term.

DONE this 3rd day of November, 2005.

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/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE